



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 6478-99

1 May 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Naval Reserve on 82 April 1992 at the age of 19. Your record contains an enlisted performance record (page 9) entry which indicates that on 26 October 1994 you received nonjudicial punishment for unspecified offenses.

Your record reflects that on 26 July 1995 you were convicted by general court-martial (GCM) of two specifications of failure to obey a lawful order and assault. You were sentenced to reduction to paygrade E-1, confinement at hard labor for 14 months, forfeitures of pay, and a bad conduct discharge (BCD). On 6 December 1995 the confinement and forfeitures in excess of 12 months were suspended and the sentence was ordered executed, with the exception of the BCD. At this time, your case was forwarded for appellate review. Subsequently, the BCD was approved at all levels of review and ordered executed. On 23 January 1997 you received a BCD.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded and your narrative reason for separation changed because these items bar you from further military service and civilian employment. The Board also considered your contentions that your conviction/offenses did not warrant a BCD and should not have had any bearing on the type of discharge you received. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the serious nature of your misconduct. It appears from the record that the BCD was appropriately adjudged, approved, and executed. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director